

REMARKS

Applicant thanks the Examiner for the very thorough consideration given the present application.

Claims 1, 3-14 and 16-21 are now present in this application. Claims 1, 9 and 16 are independent.

Claims 2, 15 and 22 have been canceled, and claims 1, 9 and 16 have been amended. Reconsideration of this application, as amended, is respectfully requested.

I. Priority Under 35 U.S.C. § 119

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document in the parent application.

II. Information Disclosure Citation

Applicant thanks the Examiner for considering the references supplied with the Information Disclosure Statement filed January 30, 2004, and for providing Applicant with an initialed copy of the PTO-1449 form filed therewith.

III. Drawings

Applicant acknowledges that the formal drawings have been approved by the Examiner.

IV. Rejection Under 35 U.S.C. § 102 and 35 U.S.C. §103

Claims 1, 3-6, 9-12 and 16-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Herbert. Claims 2, 15 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herbert in view of Malhi. Further, claims 7, 8, 13, 14, 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herbert in view of Applicant's allegedly "admitted prior art". These rejections are respectfully traversed.

Complete discussions of the Examiner's rejections are set forth in the Office Action, and are not being repeated here.

With regard to the rejection under 35 U.S.C. § 102, while not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, Applicant respectfully submits that independent claims 1, 9 and 16 have been amended to include the limitations of dependent claims 2, 15 and 22, respectively (which were not rejected under 35 U.S.C. § 102), thus rendering this rejection under 35 U.S.C. § 102 moot.

Regarding the rejection of claims 2, 15 and 22 (now claims 1, 9 and 16) under 35 U.S.C. § 103(a) as being unpatentable over Herbert in view of Malhi, Applicant respectfully submits that the combinations of elements and steps as set forth in independent claims 1, 9 and 16 are not disclosed or made obvious by the prior art of record, including Herbert in view of Malhi.

Applicant respectfully submits that the present invention discloses that a second polysilicon layer is filled within a second trench formed between the N and P-type drift

regions of a gate region such that an oxide film is deposited in the second trench as well as the upper portion of the drift region corresponding to a drain region. Also, the present invention discloses that a source region has a first trench filled with a first polysilicon layer, a first high density diffusion layer is formed on an upper portion of the first polysilicon layer and a source electrode is formed on the high density diffusion layer.

However, Herbert does not disclose that the second polysilicon layer is filled within the second trench formed between the N and P-type drift regions of the gate as recited in the present invention. In addition, Malhi does not disclose that the source region has a first trench filled with the first polysilicon layer and the source electrode formed on the high density diffusion layer as recited in the present invention.

Accordingly, the present invention differs from Herbert and Malhi at least because the source region has the first trench filled with the first polysilicon layer and the source electrode formed on the high density diffusion layer.

Applicant respectfully submits that the combinations of elements and steps as set forth in independent claims 1, 9 and 16 are not disclosed or made obvious by the prior art of record, including Herbert in view of Malhi, for the reasons explained above. Accordingly, reconsideration and withdrawal of this rejection, and allowance of claims 1, 3-6, 9-12 and 16-19 are respectfully requested.

Regarding the rejection of claims 7, 8, 13, 14, 20 and 21 based on Herbert in view of Applicant's allegedly "admitted prior art", no admission has been made by Applicant that Figures 1-3 qualify as statutory prior art usable in a rejection of the claims of the present application. Instead, Applicant has labeled Figures 1-3 as "Conventional Art" to distinguish

Applicant's invention from that which is not Applicant's invention. If a drawing figure illustrates only material which is known to be statutory prior art to the invention, then the use of the phrase --Prior Art-- in the drawing figure would be proper. However, if it is not clear whether such material is statutory prior art, then the use of the phrase --Prior Art-- in the drawing figures would not be proper, and a label such as "Conventional Art" would be more appropriate to distinguish Applicant's invention from that which is not Applicant's invention. Accordingly, for at least this reason, the Examiner has not met the required burden of presenting a *prima facie* case of obviousness, and the rejection must be withdrawn.

In addition, Applicants submit that claims 7, 8, 13, 14, 20 and 21 depend, either directly or indirectly, from independent claims 1, 9 and 16 which are allowable for the reasons set forth above, and therefore claims 7, 8, 13, 14, 20 and 21 are allowable based on their dependence from claims 1, 9 and 16. Reconsideration and allowance thereof are respectfully requested.

V. Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Application No. 10/767,203
Amendment dated January 13, 2006
First Preliminary Amendment

Docket No.: 0630-1951P

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone James T. Eller, Jr., Registration No. 39,538, at (703) 205-8000, in the Washington, D.C. area.

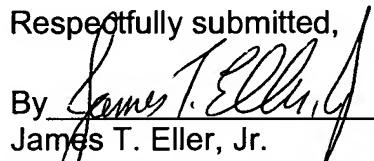
Prompt and favorable consideration of this Amendment is respectfully requested.

Applicant(s) respectfully petition under the provisions of 37 C.F.R. § 1.136(a) and § 1.17 for a one (1) month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of \$120.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: January 13, 2006

Respectfully submitted,

By 
James T. Eller, Jr.

Registration No.: 39,538

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant